

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)	CASE NO. 1:19-CR-165
)	
Plaintiff,)	JUDGE DONALD C. NUGENT
)	
v.)	
)	
NEIL KAPADIA,)	<u>Defendant Neil Kapadia's</u>
)	<u>Sentencing Memorandum</u>
Defendant.)	
)	

Defendant Neil Kapadia (“Neil”) submits the following information regarding the offense and factors which, pursuant to 18 U.S.C. § 3553, are relevant to this Court’s determination of his sentence.

I. THE OFFENSE

On March 20, 2019, Neil pled guilty to a one count information charging him with conspiracy to defraud the United States and impede and impair the IRS in violation of 18 U.S.C. § 371. Neil’s father, Ashok Kapadia (“Ashok”), pled guilty to two counts of a six count indictment on April 22, 2019 for his part in the conspiracy, as well as aiding and assisting in the preparation of false returns in violation of 26 U.S.C. § 7206(2). After entering his plea of guilt, Ashok ended his own life on May 29, 2019.

Ashok was a tax preparer and operated a tax preparation business, which prepared tax returns for small businesses and individuals. When Neil began working as a teenager, his father prepared his tax returns for him, and this continued until the

investigation in this matter. The returns Ashok prepared for his son included returns for the years 2012 through 2016.

Prior to the filing of the 2012 tax return, the Kapadias discussed lowering Neil's taxable income. In order to do this, Ashok included information concerning certain businesses, for which he prepared corporate tax returns, and the losses realized by those businesses on Neil's individual tax returns despite Neil not having any ownership, investment, interest or involvement with those businesses. Neil permitted his father to attach Schedules E and K-1 forms to his tax returns showing business losses for these certain entities, and allowed these schedules and forms to falsely lower his tax liability. Neil's actions resulted in a tax loss of \$58,816.

While Neil had legitimate interest in other businesses identified in his tax returns, he was aware his tax returns listed losses for certain businesses he had no ownership or association with other than Ashok was the preparer of the corporate tax returns. Neil knew this was wrong, but chose to go along with what Ashok prepared.

While it does not make up for what he did, Neil, as soon as he learned of the investigation, not only knew he needed to amend his returns and pay what he owed, but also desired to do so, so as to alleviate the internal guilt and remorse he felt for what he had done. Accordingly, for the first time in his life, Neil hired an independent accountant to handle his tax returns and begin filing amended tax returns for all the years he included false information. Prior to entering his plea of guilty in this matter, Neil fully paid his entire debt to the IRS.

Neil accepts responsibility for his actions. He does not attempt to justify them in any way. In order to take steps to make amends for his actions, Neil immediately agreed to cooperate in the investigation, and did so. This decision caused him much anguish as

it meant discussing his father's actions. However, Neil knew what they did together was wrong, and that they needed to rectify what they had done to the best of their ability. The anguish Neil felt at the time of making his decision to cooperate has only been amplified since the death of his father. However, Neil knows, despite his father's decision to end his own life, his decision to take the steps necessary to admit what he had done and pay his debt to the Government was the correct decision. Neil has made an affirmative effort to acknowledge his misdeeds and take affirmative steps to rectify them to the best of his ability, but his criminal actions will forever haunt him, especially in light of Ashok's death.

II. NEIL KAPADIA, THE MAN

Neil is truly ashamed by what he has done – his actions do not live up to the high standards he has set for himself. Neil has always strived to be an honest and selfless man, but he failed to live up to those values when he permitted false tax returns to be filed on his behalf and for his advantage.

A. Neil Kapadia is Dedicated to Family and Friends

Neil is a 39-year old husband and father of two small children, a son 4-years old and a daughter 3-years old. Neil is also the son of immigrant parents, and has always strived to make his parents proud of him. “[Neil] has always been a family-oriented, respectable and honest man” *See* Lisa Kapadia letter, Exhibit 1.

1. Neil Kapadia is Family Oriented

“[O]ne thing that always mattered to [Neil] was the importance of family.” *See* Gautam Kapadia letter, Exhibit 2. Neil's younger sister writes, “Neil has always been a caring and protective older brother. Always taking care of me He still checks in on me and makes sure I'm doing well to this day.” *See* Jill Christoff letter, Exhibit 3. She

recalls as children, “Neil would play carnival games for no other reason than the fact that he could win me a stuffed animal since I love them so much. A simple act, but selfless none the less.” *Id.*

Neil’s father was one of 13 children. As family is important to Neil, and his family is scattered throughout this country, “Neil took it upon himself to take the mantle for the new generation and start a new tradition to ensure that [his] extended family (over 120 people) gets together every other year. He has been selfless and been all-inclusive to reignite something that was lost over the years.” *See* Gautam Kapadia letter, Exhibit 2.

2. Neil Kapadia, the Husband, the Father and Friend

“[Neil] is a loving husband and father; an empathetic and supportive friend.” *See* Alex Bilchak letter, Exhibit 4. Neil’s wife explains that “Neil has limited time at home since he travels for work. He always makes it a priority to spend quality family time when he is there.” *See* Lisa Kapadia letter, Exhibit 1. “[O]ne thing he emphasizes is how much he loves our kids and is proud of them; something that his father did not express at all. He makes sure he says them out loud to [his children] (and me [his wife]).” *Id.*

Neil is trying to teach his children the importance of a work ethic and being a good person. *See* Lisa Kapadia letter, Exhibit 1. “For instance, when [his daughter] has taken a toy of [her brother’s] or vice versa, Neil will take [her] and patiently discuss why it was not nice to take something of her brother’s and hope it never happens again.” *Id.* Neil also tries to teach by example, for example, “[w]hen there is something that [his wife] do[es] not like and [she] let[s] him know about it, he makes his best effort so that he does not do it again.” *Id.* Similarly, Neil has learned from his actions “and will

ensure the he will never perform these actions again and will instill strong morals to [his] children to guarantee that they make the right choices in life.” *Id.*

“As a husband, he is the most loving man in the world.” *See* Lisa Kapadia letter, Exhibit 1. “As a friend, Neil always thinks of others rather than himself.” *Id.* Neil’s friend since kindergarten took the time to write a letter while deployed overseas to explain that “Kapadia is a man of high moral fiber who has spent the whole of his forty years bettering the lives of those around him.” *See* Alex Bilchak letter, Exhibit 4. His friend explains how Neil and his family bettered his life, as he “was a very unhappy child[, d]ue to complicated familial circumstances” *Id.* “Neil has been more of a brother to [him] than [his] own brother.” *Id.* Neil’s sister mentions how some of Neil’s friends from out-of-town came to Ashok’s funeral “show[ing] how big of an impact Neil has made in their lives and what a strong bond has been made between friends.” *See* Jill Christoff letter, Exhibit 3.

3. *Neil Kapadia, the Son*

Neil has always been “loving, caring and respectful to his parents” *See* Renu Shah letter, Exhibit 5. While it was Neil’s father who prepared the returns at issue in this matter, Neil does not blame his father or their relationship for his decisions. Neil accepts full responsibility for his actions; he knows he always had the power to ensure only accurate returns were filed on his behalf. Neil will always deeply regret his actions, and that regret will always be enhanced by his father’s fatal decision not long after they both pled guilty for their roles in the offense.

However, those that knew both Neil and his father, in letters, have tried to explain the relationship these two shared in an attempt to explain, from their

perspective, what role the relationship played in Neil's personal decision to allow false tax returns to be filed for his benefit.

Neil's wife explains, "[Neil] always sought his father's approval on choices and achievements he made. He always wanted to be at the top to prove himself to his father." *See* Lisa Kapadia letter, Exhibit 1. She goes further to explain "that [Neil's] father was a man of few words. When Neil would tell him of his accomplishments, all Neil wanted to hear was 'that is great!' or 'I am proud of you!' Neil never heard those words." *See* Lisa Kapadia letter, Exhibit 1.

Neil's sister, while acknowledging that she and her brother "certainly haven't talked much about [the case] . . .," states that "[t]he part that I know in my heart of hearts that is the most tragic about this whole situation is that he was led astray by terrible advice from the man that he probably trusted the most in his life." *See* Jill Christoff letter, Exhibit 3. Neil's paternal uncle similarly shares his opinion that his brother, Ashok, "led [Neil] down this path. He received bad advice and went along with it." *See* Gautam Kapadia letter, Exhibit 2. Neil acknowledges he did not merely follow advice his father gave, but rather knew the returns were fraudulent and intended to falsely lower his tax liability and he decided to file them anyway. However, Neil's mother explains:

[i]n our family and in our Indian culture we are taught to honor and listen to our father. My husband A.J. [Ashok] lived by this custom and my son had to listen to his father on everything. This included his taxes which A.J. prepared and insisted Neil sign the tax returns just the way A.J. has prepared and he should trust his dad.

See Jyotsana Kapadia letter, Exhibit 6.

Now that his father is gone, Neil has dedicated himself to being there for his mother. Neil's sister acknowledges that "[h]e has taken time out of his busy life to spend as many days as he can to be with [our] mother in Ohio." *See* Jill Christoff letter, Exhibit 3. "He has been assisting her with financial advice, life advice, and monetarily as she currently makes a minimal income selling real estate in Warren." *Id.* Neil's maternal aunt goes further and states, "[a]t this time, more than ever, [Neil] needs to be able to provide for his family and take care of his mother now that his father has chosen selfishly to leave them" *See* Renu Shah letter, Exhibit 5.

B. Neil Kapadia Has a Strong Work Ethic and Strives to Give Back to Others

Neil's mother describes her son as "a very caring, intelligent and focused individual" *See* Jyotsana Kapadia letter, Exhibit 6. "He is an asset to his family, his community, and everyone with whom he comes into contact." *See* Alex Bilchak letter, Exhibit 4. Neil's paternal uncle recalls that when Neil visited him when he was young, "[Neil] would always be eager to help me out at my small motel by offering to clean up around outside, to straighten things out, anything to lend a hand." *See* Gautam Kapadia letter, Exhibit 2.

While Neil's work ethic started young, it has continued throughout his life. One of his maternal aunts recalls that once Neil completed his undergraduate degree, he immediately became responsible for himself. "He worked so hard to make up all his college expenses and also have enough funding for his grad school. Worked almost 70 to 90 hours a week." *See* Renu Shah letter, Exhibit 5. Neil's sister explains that "Neil is not the type of person to cut corners, he is the one that says that once 100% is complete, lets [sic] put in another 25% just for good measure." *See* Jill Christoff letter, Exhibit 3.

Neil not only works hard in his career and professional endeavors, but he also works hard at giving back to his community. Neil's aunt recalls that while in school, Neil "founded a social club for Indian-American Students . . . [and] he ensured that 50% of all of the funds they raised for the organization were donated to causes in India including victims of natural disasters." *See* Renu Shah letter, Exhibit 5.

After leaving school, Neil has continued his efforts to working for causes to support those in need in India. In 2011, one of Neil's uncles approached him about assisting AT&T Technology Park, a non-profit organization in India that provides community services for "the mentally retarded, deaf, partially blind, and physically challenged." *See* Praful Shah letter, Exhibit 7. Neil agreed to assist, and over the past eight years, "[h]e has transformed lives of hundreds of disabled poor rural youngsters through his personal time, advanced expertise, solid networking, and his own financial resources." *Id.* The Project Coordinator for AT&T Technology Park, Suketu Shah, summarizes the work Neil has done, but his signature idea was to launch an endowment fund so the organization would have financial resources for decades to come. *See* Suketu Shah letter, Exhibit 8. In order to help with the endowment, Neil not only donated money, but also became an ambassador for the organization in the United States to reach out to others for additional donations. *Id.* Neil also helped with the development of satellite offices to reduce travel time for the disabled youth receiving help and the creation of other tools to help with efficiency. *Id.*

Neil not only has worked at supporting worthwhile causes in India, but also those closer to home. Neil's children currently attend a Montessori school in Arlington, Virginia. The founder and headmistress of the school decided she wanted to grow the school and build something bigger for the community. "[Neil] openly offered to assist

[her] in the development process due to his experience in the real estate development space.” *See* Chrisanthie Perera letter, Exhibit 9. The headmistress explains, “Neil has selflessly been assisting . . . through the development process by agreeing to help manage the planning and construction process so that [she] can get the school open on time and on budget” *Id.*

As one of Neil’s uncles describes him and his work with various organizations reflect, “[Neil] is truly a[n] honest and incredibly hardworking person that strives to make the world around him better.” *See* Gautam Kapadia letter, Exhibit 2.

C. Neil Kapadia Tries to be an Honest Person, and this Crime was an Aberrant Act

Neil’s actions in regards to filing false tax returns was an aberrant act he has strived to rectify to the best of his ability by filing amended tax returns, paying the amount owed, and cooperating with the government. As his sister writes, “this event is far from what I know Neil to be and his morals.” *See* Jill Christoff letter, Exhibit 3. Neil’s friend since kindergarten describes Neil’s actions as an “isolated incident” and explains that “[d]espite the circumstances, he has lived a model life.” *See* Alex Bilchak letter, Exhibit 4.

Neil’s uncle “attest[s] to the fact that Neil will never experience a transgression like this ever again.” *See* Gautam Kapadia letter, Exhibit 2. “[Neil] has used this process to learn about trust and compliance and to always let your good judgment and values take precedence.” *Id.*

Neil has also taken steps to ensure he never files false tax returns again. As soon as the investigation started, Neil hired an outside accountant to not only handle his

taxes in the future, but also to amend the false ones he had previously filed. Neil's goal was to start making amends as quickly as possible.

D. Neil Kapadia Has Been Punished and Continues to Punish Himself

The actions Neil took and the decisions he made have caused Neil great anguish. He has spent the past two years punishing himself for what he did. As one of his uncle's explains, "this situation pains him incredibly . . ." and when Neil told him about what he had done and the situation, "[he] could see the pain in [Neil's] eyes" *See* Gautam Kapadia letter, Exhibit 2.

As a result of his actions, and the resulting investigation and charges, Neil's "emotional and physical welfare have suffered." *See* Alex Bilchak letter, Exhibit 4. As his wife explains, "[n]ormally, my husband is a very jovial, out-going man. Since this has occurred, he has been reserved, withdrawn and quiet." *See* Lisa Kapadia letter, Exhibit 1. Neil is suffering for his misdeeds, and has been for the two years since the investigation started.

While Neil was filled with regret and remorse for his actions, the regret and anguish he already felt was enhanced by the decision of his father to take his own life, as such decision is entwined with the decisions Neil made to allow false tax returns to be filed on his behalf and to cooperate in the investigation. "The manner of his death and the suddenness of it has been especially difficult on Neil" *See* Jill Christoff letter, Exhibit 3.

III. THE PLEA AGREEMENT

Neil's plea agreement sets forth an offense level calculation under the advisory United States Sentencing Guidelines ("USSG") of 14. The plea agreement further provides that the U.S. Attorney's Office has no reason to believe that Neil has not clearly and affirmatively accepted personal responsibility for the conduct at issue, and agrees to recommend a 2-level reduction for acceptance of responsibility. In fact Neil did more than just accept responsibility, he met with representatives of the Department of Justice to answer all questions posed to him concerning the preparation and filing of his tax returns. Considering his father's role in the preparation of his taxes, Neil's decision to cooperate in the investigation weighed heavily on him. However, Neil knew what he did was wrong, and he believed being open and honest about not only his actions, but those of his father was the only way he could attempt to make amends for what he had done and return to being the honest man he had always strived to be. Neil's cooperation has been timely, forthcoming and truthful.

Based on Neil's cooperation, it is believed that the U.S. Attorney's Office will advise the Court as to the level of assistance Neil's cooperation has aided the Government.

IV. CONCLUSION

The conduct to which Neil Kapadia has pled does not encompass the entirety of his life. Considered as a whole, Neil's life has been a life of hard work, honesty, and dedication to family and friends. Neil is deeply remorseful for what he did, and the consequences of those actions will remain with him forever. He desires to make amends for his conduct, and hopes his acceptance of responsibility and assistance to Government authorities is a good first step. By accepting responsibility for his actions

and cooperating with the government, Neil is demonstrating how to be honest about one's misdeeds, how to accept responsibility for them, and how to properly make amends. The outpouring of support Neil has received through the letters from those who know him best, his family and friends, should be considered and reflected in the sentence given.

Respectfully submitted,

s/John F. McCaffrey

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CERTIFICATE OF SERVICE

I hereby certify that on July 19, 2019, a copy of the foregoing ***Defendant Neil Kapadia's Sentencing Memorandum*** was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

s/John F. McCaffrey
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One of the Attorneys for Defendant
Neil Kapadia